

STATE OF ARIZONA
PURCHASE ORDER TERMS AND CONDITIONS

1. **MODIFICATION.** No modification of this purchase order shall bind Buyer unless Buyer agrees to the modification in writing.
2. **PACKING AND SHIPPING.** Seller shall be responsible for industry standard packing, which conforms to requirements of carrier tariffs and ICC regulations. Containers must be clearly marked as to lot number, destination address and purchase order number.
3. **TITLE AND RISK OF LOSS.** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives the goods at the point of delivery.
4. **INVOICE AND PAYMENT.** A separate invoice shall be issued for each shipment of services. No invoice shall be issued prior to shipment of goods and/or services and no payment will be made prior to receipt of goods and/or services correct invoice. Payment due dates, including discount periods, will be computed from date of receipt of goods or services or date of receipt of correct invoice (whichever is later) to date warrant is mailed. Unless freight and other charges are itemized, any discount provided will be taken on full amount of invoice. Payment shall be subject to the provisions of Title 35 of Arizona Revised statutes. The Buyer's obligation is payable solely from funds appropriated for the purpose of acquiring the goods or services referred to in this Purchase Order. All invoices issued in reference to this Purchase Order, shall identify and reference the Purchase Order number.
5. **INSPECTION.** All goods are subject to final inspection and acceptance by Buyer. Material or services failing to meet the requirements of the Purchase Order will be held at Seller's risk and may be returned to Seller. If so returned the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of the Seller.
6. **NO REPLACEMENT OF DEFECTIVE TENDER.** Every tender of goods must fully comply with all provisions of the Purchase Order as to the time of delivery, quantity, quality and the like. If a tender is made which does not fully conform, it shall constitute a breach and Seller shall not have the right to substitute a conforming tender.
7. **FORCE MAJEURE.** Neither party shall be held responsible for any losses resulting in the fulfillment of any terms or conditions of the Purchase Order if delayed or prevented by any cause not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, that party is unable to prevent.
8. **GRATUITIES.** The Buyer may by written notice to the Seller, cancel this Purchase Order if it is found by Buyer that gratuities, in the form of entertainment, gifts or otherwise were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the State of Arizona with a view toward securing an order or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such order. In the event the buyer pursuant to this provision, cancels the Purchase Order, Buyer shall be entitled in addition to any other rights and remedies, to recover or withhold from the Seller the amount of the gratuity.
9. **WARRANTIES.** Seller warrants that all goods or services delivered under this Purchase Order (including all applicable descriptions, specifications, drawings and samples) will be free from defects in material and workmanship and will be free from defects in design and fit for the intended purposes. Any inspection or acceptance of the goods or services by Buyer shall not alter or affect the obligations of Seller or the right of buyer under the foregoing warranties.
10. **ASSIGNMENT-DELEGATION.** No right or interest in this Purchase

Order shall be assigned by Seller without the written permission of Buyer, and no delegation of any duty of Seller shall be made without permission of Buyer.

11. **INTERPRETATION PAROL EVIDENCE.** This Purchase Order is intended by the parties as a final expression of their agreement and is intended also as complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Purchase Order even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this Purchase Order, the definition contained in the Code will govern.
12. **NON-DISCRIMINATION.** Seller agrees not to discriminate against any employee or applicant for employment in violation of the terms of Federal Executive Order 11246, State Executive Order No. 99-4 and A.R.S. Section 41-1461 et. seq.
13. **INDEMNITY.** Seller agrees to indemnify and hold the Buyer harmless from any loss, damage or expense whatsoever resulting to the Buyer from any and all claims and demands on account of infringement or alleged infringement of any patent in connection with the manufacture or use of any product included in this Purchase Order and upon written request. Seller will defend at its own cost and expense any legal action or suit against the Buyer involving any such alleged patent infringement, and will pay and satisfy any and all judgements or decrees rendered in any such legal actions or suits. Seller will indemnify Buyer against all claims for damages to person or property resulting from defects in materials and workmanship.
14. **LIENS.** All goods or services delivered and labor performed under this Purchase Order shall be free of all liens, and if Buyer requests, a formal release of all liens will be delivered to Buyer.
15. **CONTRACT NUMBER.** If an Arizona contract number appears on the face of this Purchase Order, the terms of that contract are incorporated herein by this reference.
16. **TAXES.** The State of Arizona is exempt from Federal Excise Tax.
17. **CONFLICT OF INTEREST.** Pursuant to A.R.S. Section 35-511, this Purchase Order is subject to cancellation by the Buyer if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
18. **REMEDIES AND APPLICABLE LAW.** This Purchase Order shall be governed by, and Buyer and Seller, shall have all remedies afforded each by, the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this Purchase Order or in statutes pertaining specifically to the State. This Purchase Order shall be governed by the law of the State of Arizona and suits pertaining to this Purchase Order may be brought only in the courts of the State of Arizona.
19. **DISPUTES.** If a dispute cannot be resolved to a good faith effort by the parties, the dispute shall be resolved in an administrative hearing pursuant to A.R.S. § 41-2615 A.A.C. and R2-7-901 et seq.
20. **RELATIONSHIP OF PARTIES.** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one part shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments shall not be withheld from a State payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

21. LICENSES. The Seller shall maintain, in current status, all federal, state and local licenses and permits required for the operation of the business conducted.
22. PATENTS AND COPYRIGHTS. All services, information, computer program elements, reports and other deliverable which may be patented or copyrighted and created under this Purchase Order are the property of the State of Arizona and shall not be released except with the prior written permission of the State.
23. Y2K CERTIFICATION. The contractor warrants that all products delivered and services rendered under this purchase order shall comply in all respects to performance and delivery requirements of the specification and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this contract. The contractor further acknowledges that the defense of force *majeure* shall not apply to its failure to perform specification requirements as a result of any date-related data Year 2000 issues.